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SEP 04 2007

**OFFICE OF PETITIONS**

In re Application of	:	
Nils Peter Nordqvist et al.	:	
Application No. 10/023,264	:	DECISION ON THIRD RENEWED
Filed: December 18, 2001	:	PETITION UNDER 37 C.F.R.
Attorney Docket No. 22645-7202	:	\$ 1.55(C)
Title: HEARING PROSTHESIS WITH	:	
AUTOMATIC CLASSIFICATION OF THE	:	
LISTENING ENVIRONMENT	:	

BACKGROUND

This is a decision on the third renewed petition under 37 C.F.R. § 1.55(c), filed August 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Danish Application No. PA 2000 00554, filed April 4, 2000.

ANALYSIS

An original petition was filed on August 19, 2005, and was dismissed via the mailing of a decision on January 13, 2006, for failure to include the required reference in either an oath or a declaration.

A renewed petition was filed on April 13, 2006, and was dismissed via the mailing of a decision on August 30, 2006, for listing the intermediate PCT application as a foreign reference. The renewed petition was dismissed via the mailing of a decision on August 30, 2006.

A second renewed petition was filed on September 27, 2006. Petitioner was provided with an opportunity to correct an error with the Application Data Sheet, however, despite his assurance that a submission would be promptly made electronically, no submission was received. Consequently, the second renewed petition was dismissed via the mailing of a decision on August 24, 2007.

This third renewed petition is GRANTED.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 C.F.R. § 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 C.F.R. § 1.55(c).

A petition under 37 C.F.R. § 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 C.F.R. § 1.63(c)(2)) or in an Application Data Sheet (37 C.F.R. § 1.76(b)(6));
- (3) the surcharge as set forth in 37 C.F.R. § 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on December 18, 2001, which is after November 29, 2000 and within 12 months of April 4, 2001 (the filing date of the foreign application to which benefit is now being claimed). On December 18, 2001, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of \$1370 was received with the original petition. Lastly, Petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. § 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 C.F.R. § 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

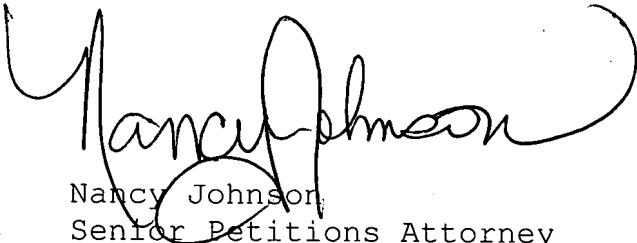
This application is being referred to Technology Center AU 2615 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225<sup>1</sup>. All other

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<sup>1</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written

inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name and title.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions  
United States Patent and Trademark Office

**Attachment:** Corrected Filing Receipt

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record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLMS	IND CLMS
10/023,264	12/18/2001	2615	4744	22645-7202	26	4

CONFIRMATION NO. 5504

CORRECTED FILING RECEIPT



\*OC000000025655083\*

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Date Mailed: 09/04/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Nils Peter Nordqvist, Sollentuna, SWEDEN;  
Arne Leijon, Stockholm, SWEDEN;

**Assignment For Published Patent Application**

GN ReSound A/S

**Power of Attorney:**

David Beck--37776

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/DK01/00226 04/04/2001

**Foreign Applications**

WORLD INTELLECTUAL PROPERTY ORGANIZATION 01/76321 A1 04/04/2001  
DENMARK PA200000554 04/04/2000

**If Required, Foreign Filing License Granted: 01/24/2002**

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/023,264**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

HEARING PROSTHESIS WITH AUTOMATIC CLASSIFICATION OF THE LISTENING ENVIRONMENT

**Preliminary Class**

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## **PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

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#### **NOT GRANTED**

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